
Royal Decree-Law 11/2020: main legal consequences for businesses

Legal flash

April 8, 2020

The Spanish Council of Ministers has approved Royal Decree-Law 11/2020, of March 31, adopting a new set of additional emergency measures to tackle the social and economic impact of COVID-19 (“RDL 11/2020”). It entered into force on April 2. Some of the measures adopted are new, while others amend or clarify those provided under RDL 8/2020.



This document analyzes the main consequences for businesses arising from the set of measures approved under RDL 11/2020.

- > Tenancy: suspended evictions, extraordinary extension and moratorium on debts because of rental arrears
- > Moratorium period for mortgage debt and loans not secured by a mortgage
- > Liquidity and support for industrialization
- > Electricity sector, guarantee and greater flexibility of supplies
- > New developments affecting public procurement
- > New measures concerning corporate matters
- > Foreign investment system
- > Employment-related measures
- > Tax-related measures
- > Other measures: state subsidies and aid, extended periods to appeal to the authorities in procedures that are unfavorable for or place tax burdens on the individuals concerned, consumer protection, early entitlement to vested rights in social welfare systems in cases of unemployment or cessation of activity, and savings banks and banking foundations



Entry into force and validity

RDL 11/2020 came into force on April 2, 2020. The measures adopted under it will be in force until a month after the state of emergency has been lifted (which, as agreed by the Congress of Deputies, will occur at 0:00 hours, or midnight at the beginning of the day, on April 12, 2020, unless they are extended by the Spanish government by means of a new royal decree-law). Exceptionally, some measures have a different term, as stated in the sections below on each measure.

Also, the term of validity of Royal Decree-Law 8/2020 ("RDL 8/2020") has been amended so that it coincides with that of RDL 11/2020, which means that the measures set out under will be in force until one month after the state of emergency is lifted.

Tenancy: suspended evictions, extraordinary extension and moratorium on debts because of rental arrears

The main measures adopted regarding residential lease agreements are listed below.

- **Eviction and foreclosure procedures owing to rental arrears subject to the 1994 Spanish Urban Leases Act affecting vulnerable households with no alternative housing options have been suspended for up to six months from April 2, 2020.**

Situations of vulnerability resulting from COVID-19 are those that meet the following requirements, which must be justified as provided under the regulation, namely that (i) the person obliged to pay rent becomes unemployed, is affected by a temporary redundancy plan ("ERTE"), or has had to reduce his or her working hours to provide personal care, in the case of business owners, or other similar circumstances leading to a loss in revenue so significant that the joint family revenue, in the month prior to the application for the moratorium, did not reach three times the multi-purpose public income index ("IPREM") threshold, which may be increased, among others, on the basis of there being dependent children, dependent family members older than 65, family members with a disability exceeding 33%; or (ii) the rent, plus expenses and basic utilities (including fixed-line and mobile telecommunications, and condominium expenses), is equal to or higher than 35% of the family's joint net income.

- **Extraordinary extension for up to six months of main residence lease agreements subject to the 1994 Spanish Urban Leases Act that expire between April 2, 2020, and**



two months following the end of the state of emergency, maintaining the same terms and conditions provided in the agreement being extended. The lessee is obliged to ask the lessor for this extension, which the lessor must accept, even if the parties then agree to other terms and conditions.

- > **Automatic moratorium on paying rent to lease a main residence under an agreement subject to the 1994 Spanish Urban Leases Act is granted to those in a situation of vulnerability** (in the terms set out above) when the **lessor is a company or public entity providing housing, or a large housing asset holder** (an individual or legal entity owning over 10 urban properties, excluding parking lots and storage spaces, or a built surface area of over 1,500 m²). This also applies to leases corresponding to the **Social Housing Fund** (RDL 27/2012).

The lessee must apply for the moratorium within one month from April 2, 2020. If the parties have not already reached a previous agreement, the lessor can choose either (i) to apply a 50% reduction on the rental fee while the state of emergency lasts and, ultimately, for the following months after it ends if the term is insufficient owing to the situation of vulnerability, up to a maximum of four months; or (ii) not to collect rent (again, while the state of emergency lasts and, ultimately, for the following months after it ends if the term is insufficient owing to the situation of vulnerability, up to a maximum of four months). Rent collection will be deferred for at least three years (calculated as set out in the regulation), and no interest will accrue on this amount.

- > **Even if the lessor is not a company or public entity providing housing, or a large housing asset holder**, lessees in a position of vulnerability have **one month from April 2 to request the temporary and extraordinary deferred** payment of rent if parties have not already reached a previous agreement. **If the lessor does not accept any agreement**, the lessee may access **the temporary financing schemes** regulated under RDL 11/2020, which provides a guarantee system so that banks can offer temporary financing, directly paying the rent, covering up to six monthly payments, which must be returned within six years, exceptionally renewable for another four.
- > It also establishes a **state aid scheme** to help households that applied for a temporary loan while in a situation of vulnerability and are struggling to pay it back because they have not been able to recover from that situation arising from the COVID-19 crisis. This aid will be awarded directly and will cover up to six monthly rent payments (up to €900 per month and up to 100% of the rent or, where appropriate, up to 100% of the principal and interest of the loan subscribed and used to pay the rent of the main residence).



- > **Anyone who has unduly benefited from the extraordinary moratorium on debts or from state aid** to cover rent payments and who does not meet the legal requirements, or that seeks to deliberately provoke or maintain a situation of vulnerability, **will be liable for any damages caused**, as well as for all expenses arising due to these exceptional measures being applied (without prejudice to any other liabilities this individual may incur). The total amount of this liability will not be lower than the benefit obtained.

Moratorium period for mortgage debt and loans not secured by a mortgage

RDL 8/2020 established a moratorium period for the mortgage debt from loan or credit agreements of debtors undergoing any so-called “circumstances of economic vulnerability.” This important measure has been revised under RDL 11/2020, which has extended its scope of application and has made several technical adjustments for its implementation. Below is an updated summary of the most important features.

- > **Scope of application** Under RDL 8/2020, the measure only applied to mortgage loans taken out to purchase a main residence. However, since April 2, 2020, this measure now also covers:
 - mortgage loans taken out to purchase a main residence
 - mortgage loans taken out to purchase property used to carry out the activity of individuals considered entrepreneurs or professionals and that are undergoing circumstances of economic vulnerability
 - mortgage loans taken out to purchase rented residences where the owner and mortgage debtor has not been paid rent since the state of emergency was declared and up to a month after it is lifted
 - debt arising from loans and credits not secured by a mortgage taken out by individuals undergoing any circumstances of economic vulnerability provided under the regulation
- > In brief, the **cases of economic vulnerability** covered by this regulation are the following. The new regulation clarifies that the following requirements must be met jointly:
 - Unemployment or, in the case of business owners or professionals, a substantial loss of income or drop by at least 40% of sales. To be considered an entrepreneur or professional, individuals must meet the requirements set out under article 5 of Spanish Act 37/1992, of December 28, on Value Added Tax.



- Maximum limit of family revenues in the month prior to the application for the moratorium of three times the multi-purpose public income index (“**IPREM**”) on a general basis. This limit will be increased on the basis of dependent children (0.1 times the IPREM per child, or 0.15 times the IPREM per child in single-parent families); family members older than 65 (by 0.1 times the IPREM); family members with a disability, and those that are dependent or have a permanent disability preventing them from performing a work activity (by four times the IPREM, without prejudice to cumulative increases for children). If the mortgage debtor has a certain illness or a certain degree of disability, and in the case of a serious disease preventing debtors or their carers from performing a work activity, the maximum limit will be five times the IPREM.
- Amount of the mortgage payment, plus expenses and basic utilities equal to or higher than 35% of the family’s net income. One new feature of RDL 11/2020 is that it clarifies that these expenses and basic utilities include costs associated with the supply of electricity, gas, furnace fuel oil, and water; fixed-line and mobile telecommunications services; and condominium expenses attributable to the main residence.
- Significant change in the family’s economic circumstances when the burden of all mortgage charges covered by this measure on the family income has multiplied by at least 1.3.

Also, the regulation has amended the definition of the cases described above that are related to calculating the burden of the mortgage, which is applicable to the moratorium period for debts not linked to a mortgage.

- > **Guarantors** The measure covers the guarantors of mortgage debtors and debtors in respect of a loan not secured with a mortgage, applying the same terms as those established for the main debtor. Any guarantors and mortgagors that have no debt that are in a position of vulnerability mentioned above may require that the assets of the main debtor be used before claiming the secured debt, even if they have waived the benefit of *excussio*.
- > **Application and award.** The debtor must apply to the creditor to request the moratorium to pay the mortgage debt, attaching the documents specified in the regulation. A new feature is that while the state of emergency is in force, the required document can be replaced by a sworn statement of the individual concerned. In this case, this individual must submit the required documents within one month following the end of the state of emergency.

The creditor must implement the moratorium period requested within 15 days and report to the Bank of Spain for accounting purposes and for non-attribution in the



calculation of risk provisions. The new regulation clarifies that the amounts payable by the debtor if the moratorium was not granted would not be considered past due for these purposes.

It also clarifies that suspension will not require an agreement between the parties or a contractual novation for it to apply, although mortgage debts must be formalized in a public deed and registered with the land registry.

If the parties agree to novate the contractual clauses beyond the requirements imposed to implement the moratorium, the novation must also include the effects. The novation cannot be formalized in a public deed while the state of emergency is in force and until freedom of movement is fully restored. This does not suspend the effects of the moratorium (which are automatic).

- **Exemptions and allowances.** It provides that any deeds for the novation of mortgage loans and credits for the purchase of the main residence formalized within the framework of implementing the moratorium period for payment of the mortgage debt may be exempt from the gradual payment of notarial documents under the documented legal acts category of transfer tax and stamp duty established under Final Provision 1 of RDL 8/2020, by adding a new number 28 to article 45.I.B) of the consolidated text of the Spanish Transfer Tax and Stamp Duty Act (Royal Legislative Decree 1/1993, of September 24). This new exemption would be supplementary to the one already established for certain novations of mortgage loans and credits under the terms of Act 2/1994, of March 30, on the subrogation and modification of mortgage loans.

Also, RDL 11/2020 provides for allowances for notary public fees and registration fees to formalize the novation of mortgage loans and credits.

- **Term of the moratorium and effects.** As a new feature, RDL 11/2020 provides that this measure will be in place for three months, which may be extended by resolution of the Council of Ministers. During the moratorium period, the creditor cannot demand payment of any installments or interest, no remuneration or default interest will accrue, and the maturity date will be extended for the same time as the moratorium period (no remaining contractual conditions can be amended). The regulation also clarifies that the suspension of contractual obligations will become effective from the date request for the moratorium is submitted along with the required documents.



- > **Damages** It is also established that any debtor that unduly or fraudulently benefits from the moratorium period will be liable for any damages and expenses caused.
- > **Supervision y penalties** Finally, RDL 11/2020 introduces a supervision and penalty system for credit institutions supervised by the Bank of Spain and, imposes the obligation to report daily to the Bank of Spain, informing it of the number of moratoriums requested and awarded.

Liquidity and support for industrialization

We draw particular attention to the following measures adopted under RDL 11/2020 to ensure liquidity and support for industrialization.

- > **It** has amended the terms and conditions to call tenders for loans granted by the General Secretary of Industry and SMEs (**SGIPYME**) that were pending resolution at the beginning of the state of emergency, extending the period for beneficiaries to provide security to November 3, 2020.
- > Beneficiaries of loans granted by SGIPYME for industrial projects can ask for repayment schedules to be amended and loans to be subrogated within two and a half years from the beginning of the state of emergency if these beneficiaries have been affected by the COVID-19 public health crisis. This measure affects SGIPYME programs involving industrial redevelopment, promoting competitiveness in strategic industrial sectors, promoting competitiveness in the automotive sector, industrial redevelopment and strengthened industrial competitiveness, and the Connected Industry 4.0 and R+D+I programs in the manufacturing industry.
- > **ICEX** España Exportación is authorized to return irrecoverable expenditure to companies that have paid these expenses to participate in international promotion activities affected by the COVID-19 public health crisis. It also establishes that financial assistance will be made available to these businesses.
- > The payment of interest and capital amortization has been suspended on loans granted by the General Secretary of Tourism in the framework of funding lines included in the **Emprendetur** program.



- Businesses and self-employed workers can request deferred payment of principal or interest that should have been paid in the remaining months of 2020 under the financial loan agreements (excluding certain types of financial instruments) granted by the authorities of **autonomous regions and those of local authorities** that belong to the public administrations sector.
- The Spanish Refinancing Company (*Compañía Española de Reafianzamiento S.M.E., S.A.*, or **CERSA**) has been given a credit supplement amounting to €60 million to go toward its “Small and Medium-Sized Enterprises Support Program.”

Electricity sector, guarantee and greater flexibility of supplies

- **Amendment to the Electricity Sector Act:** In the case of grid access and connection authorizations granted before this law came into force and that would have expired if, before March 31, 2020, they had not received the authorization to operate the generation facility associated to these permits, the deadline of these authorizations has been extended a further two months, starting from the date the state of emergency is lifted.
- **Guaranteed supply of electrical energy, petroleum products, natural gas and water:** Exceptionally, while the state of emergency is in force, companies that supply these utilities cannot cut off the service to the main residence of citizens, except for security reasons. The period during which the state of emergency is in force will not count for calculating the time between the legal requirement of the formal payment and the supply being cut off due to late payment.
- **Measures providing greater flexibility to utility agreements:** Several measures have been adopted to provide greater **flexibility** to SMEs and self-employed workers with regard to electricity and natural gas supply agreements. RDL 11/2020 also establishes a mechanism allowing the contract holder to suspend payment of invoices for electricity and natural gas and certain petroleum products to the marketer. Also, to reduce the financial pressure on marketers, they are exempted from having to pay tolls and settling indirect taxes (as further explained below in the section on tax-related measures) charged for this consumption during the payment suspension period.



New developments affecting public procurement

Amendment of article 34 of RDL 8/2020

- > **Automatic suspension** provided for in the first section has been removed for successive service and supply agreements. This suspension will be subject to the decision taken by the procurement body, as will all other agreements. It also contemplates the possibility of partially suspending these agreements and establishes a compensation system for damages related to this partial suspension.
- > Regarding **damages related to “salary expenses,”** RDL 11/2020 confirms that they also include social security contributions.
- > Also concerning “salary expenses,” it specifies that if employees with a service and supply agreement included in the first section of article 34 of RDL 8/2020 are affected by recoverable paid leave provided under RDL 10/2020, the payment made by the awarding authority will be considered a down payment on the hours recovered at a later date.
- > Agreements listed in the sixth section of article 34 of RDL 8/2020 (e.g., health care, and pharmaceutical supply agreements, cleaning and security agreements) can also be **extended on expiry** if a new agreement cannot be entered into owing to the suspension of bidding procedures.
- > It also raises the possibility of **partially suspending** cleaning and security agreements, despite the general non-suspension rules provided in the sixth section, when the buildings or public facilities that are the purpose of the agreement are completely or partially closed owing to the measures adopted to tackle the impact of COVID-19. In this case, the general rules provided under the first section of article 34 of RDL 8/2020 will apply.
- > Finally, **agreements awarded in accordance with Act 24/2011**, of August 1, on public sector contracts in the areas of defense and security, are also included within the scope of article 34 of RDL 8/2020.



Maximum term of supply agreements is extended

- The maximum term of supply agreements is extended to beyond five years, and the terms are similar to those of services agreements, when this is required due to the recovery period for investments that are directly related to fulfilling the agreement.

New measures concerning corporate matters

Amendments have been made to the system introduced under RDL 8/2020 (see our [legal flash on RDL 8/2020](#)):

- **Virtual board of directors and general meetings:** Even if not established in the bylaws, management bodies and their committees may hold meetings via videoconference or conference call (the latter is a new option), as long as the secretary recognizes the identity of all the attendees and states this in the minutes. The same rule applies to partners and shareholders meetings.
In our view, however, general meetings cannot be held in writing and without meeting.
- **Drafting and auditing annual accounts:** RDL 11/2020 clarifies that companies can draft annual accounts during the state of emergency, and that they can either request the extension (three months from the date the state of emergency is lifted) or draft the annual accounts as usual. Likewise, they can request for the audit to be extended (whether mandatory or voluntary) or fulfill the process by the given deadline.
- **Proposed distribution of profits.** In this regard, RDL 11/2020 adheres to the guidelines given in the [notice of the Spanish Securities and Exchange Commission and the Association of Registrars, of March 26](#), which are applicable to listed and unlisted companies. More specifically, it is possible to replace the proposed distribution of profits in the case of companies that have drafted their accounts and that call a general meeting once the exceptional measures have come into force or, if the general meeting has already been called, to submit a new proposal to the shareholders meeting, as long as a series of requirements are fulfilled (including presenting a justification issued by the governing body and a statement from the auditor). When a listed company is involved, it must send a notice informing that it has adopted these measures through the channel for disclosing inside information or any other important information, as applicable, and as information supplementary to the annual accounts.



Foreign investment system

To prevent foreign investors from acquiring Spanish companies at a time when their value has diminished, RDL 8/2020 suspended the system for the liberalization of the so-called “direct foreign investment” in two cases (see our [legal flash on RDL 8/2020](#)):

- > Based on **the target’s profile**; when it operates in one of the “main strategic sectors in Spain.”

- > Based on the **investor’s profile**, when (i) the investor is controlled directly or indirectly by a third-country government; (ii) it participates in sectors affecting the public order, public security, and public health of another Member State; or (iii) it has had administrative or court proceedings brought against it in another State for exercising criminal or unlawful activities .

For this purpose, “direct foreign investments” are those subject to previous authorization, those carried out by residents outside the EU or EFTA States, when they hold a share of at least 10% in the company’s capital or they take an active part in managing or controlling that company. New features of RDL 11/2020:

- > **It extends the definition of “direct foreign investment.”** imposing the obligation for residents of EU or EFTA States to obtain prior authorization when a non-resident holds, or ultimately has direct or indirect control of over, 25% of the company's capital or its voting rights, or when, through any other means, it exercises direct or indirect control over the investor.

- > **It establishes a simplified authorization system for certain transactions that are under way and transactions involving a small amount.** These transactions will be subject to the process defined under article 96 of Act 39/2015, once a request has been made to the corresponding person at the General Directorate for International Trade and Investment:
 - If there is legally valid proof that, before March 18, 2020, the transaction was subject to a binding agreement in which the price had been set in a determined or determinable way.
 - Investments for a value of between €1 million and €5 million until, if applicable, appropriate implementing regulations amending article 7 bis of Act 19/2003 are developed.



- **It includes a *de minimis* threshold:** Investments for a value of under €1 million are exempt from this obligation until, if applicable, appropriate implementing regulations amending article 7 bis of Act 19/2003 are developed.

Employment-related measures

Safeguard of jobs

RDL 11/2020 clarifies the six-month commitment for employers to safeguard jobs, as established under the sixth additional provision of RDL 8/2020, in the case of businesses that carry out a temporary redundancy plan (ERTE) owing to the economic impact of COVID-19 (see [Legal Flash](#)):

- The authorities will review this commitment based on the specific features of each sector and applicable regulations. Specific consideration is given to **highly variable businesses and those offering seasonal employment**, and those that are directly linked to **specific events and shows**, as is the areas of performing arts, music, and film making and audiovisual arts.
- Employers will not be considered to have breached the commitment to safeguard jobs if they terminate **temporary contracts** because the agreed term has expired or if it is not possible to carry out the task or provide the service, or if the activity performed under the contract cannot be carried out immediately.
- According to the Explanatory Memorandum of RDL 11/2020 (despite not being directly mentioned in its articles), businesses will not be considered to have breached this commitment when employment contracts are terminated due to fair disciplinary dismissal, resignation, retirement, or total permanent incapacity or total and near-total disability of the employee.

Moratorium on contribution payments and deferral of social security debts for businesses and self-employed workers

The regulation enables the Social Security General Treasury to grant interest-free six-month moratoriums to businesses and self-employed workers that request a moratorium and fulfill the requirements and conditions that will be set out in an order issued by the Ministry of Labor, Social Security and Migrations. The moratorium will affect company's social security contributions that accrue between April and June 2020 in the case of businesses, and between May and July 2020 in the case of self-employed workers, as long



as the activities they carry out have not been suspended owing to the state of emergency.

Also, businesses and self-employed workers that have no other deferral in effect can apply, in the 10 calendar days of the legal payment period, for deferred payment of their social security debts for which the payment period is between April and June 2020, with an applicable 0.5% interest (instead of default interest, set at 3.75% in 2020).

Businesses undergoing insolvency proceedings

Companies undergoing insolvency proceedings fall within the scope of application of RDL 8/2020 (see [Legal Flash](#)), including the commitment to safeguard jobs, with regard to ERTes on the grounds of *force majeure* or based on economic, technical, organizational, and production grounds, with some exceptions.

Therefore, businesses undergoing this situation can benefit from a quicker ERTE procedure; the restoration of unemployment benefits; and exemption from having to pay social security contributions in the case of ERTE on the grounds of *force majeure* (whether partial or total, depending on the number of employees).

As regards entitlement to benefits provided under RDL 8/2020 (see [Legal Flash](#)), it is established that the ruling of the judge hearing the insolvency proceedings, in which the temporary measures to suspend employment are adopted as provided under articles 22 and 23 of RDL 8/2020, will have full effect for the entitlement to these benefits. If the judge has not yet issued a ruling, requests will be sent to the labor authority for it to continue to process them as provided under RDL 8/2020. In this case, the actions previously carried out will be valid, as will any consultation periods that may have been held or are still in progress.

Business certificate in the case of confinement

Businesses have to issue certificates justifying that telework is not feasible in the case of employees that live in towns that have been confined and must travel to another place because they are obliged to provide essential services, as this will allow them to temporarily qualify as being in a situation of temporary inability.

Subsidy for the care of minors. Information provided to the labor authority and the State Public Employment Service

In their request to suspend or reduce employees' working hours (ERTE), businesses must inform the State Public Employment Service of whether any of these employees have reduced working hours because they receive a subsidy for the care of minors affected by



cancer or other serious illnesses, which will be compatible with unemployment benefits while the state of emergency is in force. It is necessary to state the part of the working day affected by the suspension or reduction of working hours. During the state of emergency, there is no obligation to pay social security contributions.

Tax-related measures

Royal Decree-Law 11/2020 introduces the following measures:

- > A deferral can be requested for **customs and tax debts arising from customs declarations filed** between April 2 and May 30, as long as the amounts are above €100 and lower than €30,000. The recipient of the imported good must be an individual or legal entity whose business volume did not exceed €6,010,121.04 in 2019. The deferral period will be six months, and no interest will accrue for the first three months. The application must be made on the customs declaration itself and the guarantee submitted for the goods to be cleared will be valid for obtaining the deferral.
- > **The suspension of tax-related periods approved under RDL 8/2020** (article 33) is also applicable to the tax proceedings, formalities and procedures that began before March 18, 2020, followed by **autonomous regions** and by **local authorities**, regardless of whether the latter are subject to the Consolidated Text of the Act Regulating Local Tax Administrations.
- > The regulation also clarifies the **periods for bringing administrative and economic-administrative appeals and claims**. In this sense, it provides that the one-month period to file appeals that had not ended on March 13, 2020, regardless of whether the act had been notified before the declaration of the state of emergency (on March 14), will start to run from April 30, 2020. This date has been changed by RDL 15/2020 and has been postponed to May 30, 2020. This period will also apply to appeals for reconsideration and claims that, in the tax field, are regulated under the Consolidated Text of the Act Regulating Local Tax Administrations.

Besides, the RDL 11/2020 clarifies that the period between March 14 and April 30 should not be taken into consideration for calculating **the maximum period for enforcing economic-administrative resolutions**. The RDL 15/2020 has extended this period until May 30, 2020. It also specifies that during that period, **all statute of limitations periods and the deadlines for any actions and rights provided under Spanish tax legislation are suspended**. It specifies that this will affect procedures,



claims and formalities processed by the Spanish Tax Agency or by tax authorities of autonomous regions and of local governments.

- The provisions of article 33 of RDL 8/2020, regarding the suspension of time periods for tax debts, will also apply to other public appeals.
- Finally, an exemption is granted to electricity and natural gas retailers, and to distributors of manufactured gases and piped liquefied petroleum gases, from the obligation to assess VAT and excise taxes on electricity and, if applicable, on hydrocarbons, relating to invoices with suspended payment at the request of the customer (self-employed workers and SMEs). This exemption will last until the customer has paid the invoices, or after a six-month period from the end of the state of emergency.

Other measures

State aid and subsidies

Orders and resolutions for the call for applications and granting of state aid and subsidies provided under article 22.1 of Act 38/2003, of 17 November, on subsidies in general (“LGS”), that had already been granted when the state of emergency entered into force, can be modified to extend the periods in which to carry out the subsidized activity and, if necessary, to justify and ensure that it has been carried out, even if this was not envisaged in the corresponding regulatory bases.

Beneficiaries can also request the amendment of resolutions and agreements for the granting of subsidies provided under article 22 of the LGS, although if the subsidy will be destined to financing the entity’s operation, the completion period established initially cannot be modified.

Extended periods to file administrative appeals in procedures that are unfavorable for or place tax burdens on the individuals concerned

The period to file administrative appeals or to initiate any other challenge, claim, conciliation, mediation and arbitration proceedings that may replace them in accordance with the laws, in any proceedings that may be unfavorable for or place tax burdens on the individuals concerned, will be calculated from the business day following the date on which the state of emergency is lifted, regardless of the time that had passed since notice was given of the administrative claim subject of appeal before the state of



emergency was declared. This has no bearing on the efficiency and enforcement of the administrative claim subject to appeal or being challenged.

Consumer protection

Consumers and users are entitled to terminate any agreement they have entered into within 14 days (this applies to the purchase agreements and services agreements) if (i) it is impossible to perform the agreement; and (ii) the parties are unable to agree on a proposal for the review of the agreement (e.g., vouchers instead of refunds). In this case, the consumer is entitled to a refund (excluding expenses incurred, which must be itemized). In the case of agreements for the provision of an ongoing service, any amounts paid must be reimbursed in proportion to the time during which the service was not provided if the consumer does not accept the options to resume the service at a later date. Another option is to reduce the amount of future charges if the consumer accepts this proposal and, in any case, no other monthly charges can be collected until normal service is resumed. This does not imply that the agreement has been terminated.

In the case of package tours that have been canceled as a result of COVID-19, the retailer can give the consumer a voucher that will be valid for one year after the state of emergency has been lifted. Consumer are entitled to request a full refund if at the end of this period they have not used the voucher.

Early entitlement to vested rights in social welfare systems in cases of unemployment or cessation of activity

A new exceptional measure is introduced allowing for the early entitlement to vested rights in pension schemes, insured pension schemes, corporate social welfare schemes, and mutual insurance companies. The beneficiaries of this measure are listed below, along with the limits applied to maximum early entitlement:

Individuals entitled to early withdrawal	Maximum available amount
Employees that are legally unemployed due to an ERTE implemented due to the public health crisis caused by COVID-19	Any salary that was not paid while the ERTE was in force
Entrepreneurs that own establishments that are not allowed to open to the public under Royal Decree 463/2020, of March 14, declaring the state of emergency	The estimated net income they did not receive while the establishment was allowed to not open to the public
Self-employed workers that were previously under a social security regime in this category and have ceased in their activity due to the public health crisis caused by COVID-19	The estimated net income they did not receive during the public health crisis



Early entitlement to vested rights can be claimed within **six months** from March 14, 2020 (the date on which the state of emergency came into force), although this period may be extended in the case of pension schemes. Applicants must prove the amount of these limits and make the request in accordance with the terms and conditions provided in future implementing regulations. Requests must be addressed with seven business days from the date on which the corresponding supporting documents are submitted.

Any amounts obtained as a result of this early withdrawal will be subject to the tax regime applicable to pension scheme benefits, which means the taxation of such amounts under personal income tax as employment income, and companies paying the amounts would have to levy the corresponding withholding tax on account.

Collective investment undertakings

In view of the situation financial markets are facing and in anticipation of the potential massive refunds from investment undertakings, RDL 11/2020 has amended section seven of article 71 *septies* of Act 35/2003 and now enables the Spanish Securities and Exchange Commission to authorize collective investment undertaking management companies to set notice periods for reimbursements from the collective investment undertakings they manage, without being subject to the restrictions provided in their management regulations in terms of fixed periods and minimum amounts. Moreover, the Spanish Securities and Exchange Commission is given the option to set these notice periods.

Savings banks and banking foundations

A two-year extension is granted to banking foundations that had a disinvestment plan already approved by the Bank of Spain. If a foundation applies for this extension, it must set up a reserve fund with an annual amount equal to at least 50% of the dividends it receives from the credit institution it holds shares in.

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